



*United States Attorney
Eastern District of New York*

MEF:TJS
2001R02528

*One Pierrepont Plaza
Brooklyn, New York 11201*

*Mailing Address: 147 Pierrepont Street
Brooklyn, New York 11201*

May 13, 2005

VIA ECF

Honorable Sterling Johnson, Jr.
United States District Judge
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. William Bonfiglio
Criminal Docket No. 03-605 (SJ)

Dear Judge Johnson:

The government submits this letter in response to the defendant's sentencing submission. The defendant is to be sentenced on May 20, 2005.

William Bonfiglio was an associate in the crew of Ralph Lombardo, a captain in the Colombo crime family. Bonfiglio pled guilty to racketeering and agreed to not appeal his sentence if it is 57 months or below. Bonfiglio was responsible for managing a loanshark book for the Lombardo crew and managing its illegal, off-shore sports betting business.

The defendant makes two principal arguments in his submission. First, he contends that he does not deserve an upward adjustment for supervisory or managerial role. Second, he asks this Court to show some leniency based on his recent conviction in the Southern District of New York for one isolated extortion and securities fraud violations that form no part of this case. The defendant's arguments are without merit. We respectfully submit that Bonfiglio should be sentenced within the estimated guidelines range of the plea agreement, which is 41 to 51 months. He should receive no leniency because he was recently prosecuted for distinct crimes in another district, and his sentence here should run consecutive to the sentence imposed in the Southern District matter, a sentence he completed in December 2003.

Bonfiglio was a Manager/Supervisor

The overwhelming evidence in this case demonstrates that Bonfiglio deserves a three-level upward adjustment. Co-defendants Lombardo, Ferretti, Cascio and Tavernise have all been given upward adjustments by this Court. Bonfiglio and Ferretti worked together as partners in both the gambling and loansharking business. Together they used subordinates,

including a cooperating witness who made tapes of them and Bonfiglio's own stepson, co-defendant Scott Fiorello, to make collections of loansharking and gambling debt. They further exercised control over the off-shore sports betting business by determining who could bet and what their limits would be.

The evidence consists of victim witnesses, cooperating witnesses, wiretap interceptions and consensual recordings. The following examples demonstrate Bonfiglio's managerial role. They also demonstrate his continued participation in the affairs of the Lombardo crew after he was arrested on July 26, 2001 and released on bail in the separate Southern District matter:

June 27, 2001

Bonfiglio and Ferretti met with a cooperating witness at an auto body shop in Suffolk County to berate him for failing to make collections and to pay his own debt to them. At one point in the conversation, Ferretti explained to the cooperating witness how collections are to be made:

I don't understand why you can't find nobody. I mean, I sent other guys out, they find people. What do you do, go there, ring the fucking doorbell, if the guy ain't home you go away? You sit there, you park your fucking truck, and you wait for him to come home. You stay there a day, two days, you catch the guy. That's how you make your money.

Later in the conversation, Ferretti explained that except for Bonfiglio's support, the cooperating witness would be severely injured or killed because of his own unpaid debt:

Where I stand, if it wasn't for this guy (Bonfiglio) right now, let me tell you something and I fucking mean this, you wouldn't be walking again. You bet somebody would be looking for you, cause you'd be gone.

When explaining that the cooperating witness can pay off his debt to Ferretti and Bonfiglio by collecting other money owed to them, both Ferretti and Bonfiglio stressed the importance of the actual and threatened use of violence:

Ferretti: The way you find the guy is you search him down and you fucking sleep in front of his fucking house until you catch him, or go to the place where he hangs out, or you find somebody who knows him where he works, that's how you get a guy.

Bonfiglio: It's not easy. I never said it was easy. I told you it was hard. . . . When you grab the guy and you get . . . him, the stuff, there's plenty to be split up.

Ferretti: Sometimes you grab one.

Bonfiglio: And the rest hear.

Ferretti: Give him a fucking beating. Get the fucking money out of him, the other ones just call you [and] come around with the money.

Ferretti later reiterated the need for the use and threat of violence as a means of debt collection:

You gotta be persistent in what you're doing. You gotta make guys know. Hey, I don't give . . . if you grab them, after you grab the first guy, second guy, third guy, then other guys fall into place especially if they all know each other in a clique. These guys are married or they [have] jobs. They don't want to be put in the hospital for a fucking week, or they don't want to go home and the wife seen [sic] the beating.

The above conversation was recorded before Bonfiglio was arrested in the separate Southern District case. After being released on bail, Bonfiglio continued the criminal work of the Colombo Family. Below are some of the more telling examples of his disregard for the conditions of his pre-trial release. These excerpts, which come from electronic surveillance of Ferretti's telephones, also demonstrate Bonfiglio's managerial role in the crew.

August 15, 2001

Ferretti and Bonfiglio discussed payment of gambling winnings to individuals in Brooklyn and the establishment of betting limits for certain bettors.

August 16, 2001

Ferretti and Bonfiglio discussed collection of loanshark victim named Bert. They further discussed the opening of certain bettors in the illegal gambling operation.

August 16, 2001

Ferretti and Bonfiglio discussed collection of money from loanshark victim Sean Haynes.

August 21, 2001

Ferretti and Bonfiglio discuss shutting out a bettor in the sports betting business.

September 4, 2001

Ferretti and Bonfiglio discussed the fact that a debtor named Chance did not have money for them. They further discussed the payment schedule for other loanshark debtors.

September 17, 2001

Ferretti and Bonfiglio discussed the collection of debts from other loanshark victims and the fact that several payments were delinquent. Ferretti and Bonfiglio agreed that they had to get together to discuss the status of their collections.

September 28, 2001

Ferretti and Bonfiglio discussed the fact that Ferretti had to pay bettors in Brooklyn.

October 1, 2001

Ferretti and Bonfiglio discussed the need to collect money because Ferretti had to borrow money from the “old guy” (Lombardo) to pay winning gamblers. They further discussed the collection of a large loanshark debt from an individual named Ron, who offered \$65,000 in settlement of the debt. Ferretti rejected the settlement. Bonfiglio warned Ferretti not to agree to a substantial reduction in the amount owed because they would not be able to make up the loss.

November 8, 2001

Ferretti reported to Bonfiglio that the boat was sold. The boat belonged to a loanshark debtor who was supposed to sell his boat in order to pay back a loanshark debt to Ferretti and Bonfiglio.

These are just a few examples of Bonfiglio’s managerial role in the loansharking and gambling operation, but there is even more compelling evidence. Co-defendant Scott Fiorello, who pled guilty to the same RICO charge, was only involved in the racketeering enterprise because Bonfiglio used Fiorello, who is his stepson, to make collections for him. Several witnesses identified Fiorello as someone who would help Bonfiglio to make collections. The evidence that Bonfiglio used subordinates to collect illegal debts and exercised managerial control over a sophisticated sports betting operation and a loanshark book worth hundreds of thousands of dollars clearly satisfies the required preponderance standard.

The Separate Southern District Case

Before his indictment in this matter (June 2003), Bonfiglio was arrested on July 26, 2001 based on an indictment in the Southern District of New York. That indictment charged a single extortionate collection that Bonfiglio did not do for the Lombardo crew, but for a friend who was also a loanshark. It had nothing to do with the conduct prosecuted here. The Southern District also charged securities fraud and commercial bribery. Those crimes and the evidence of them are simply not a part of this case. The Southern District’s investigation was entirely separate from the investigation in this matter. The defendant’s sentencing memorandum ignores the facts, and sometimes just misstates them, to persuade this court that the Southern District and Eastern District prosecutions were somehow related.¹ Contrary to what the defendant would like

¹The defendant, in an act of pure fiction, states: “In point of fact, as we now know, it was the very same loansharking and bookmaking charges that formed the basis for the Southern District case that also formed the basis for the Eastern District prosecution of Mr. Bonfiglio.” (Def. Sent. Mem. at 5) This statement is patently untrue. The Southern District brought their case without any evidence from the Eastern District and vice versa. There was one isolated extortion in the Southern District case that played no part in this case, and there were not any

the Court to believe, there were no common victims or common crimes. There was no overlap between the two cases at all, and Bonfiglio should receive no consideration from this Court because the Southern District prosecuted him for distinct crimes that form no part of the instant matter.² The crimes are different, the evidence is different, the investigations were separate, and Bonfiglio continued his racketeering activities for the Lombardo crew following his arrest on the Southern District case. Accordingly, far from receiving any credit for his prior sentence, Bonfiglio should receive a fully consecutive sentence here.

Bonfiglio's Medical Condition is not Extraordinary

Bonfiglio lastly contends that he should receive a downward departure based on his medical condition. Bonfiglio's condition, however, is not extraordinary, and the Bureau of Prisons routinely treats inmates with similar conditions. Accordingly, his health serves as no basis for a downward departure.

CONCLUSION

For all the foregoing reasons, we respectfully submit that the Court should sentence the defendant within the guidelines ranges estimated in the plea agreement, which is 41 to 51 months, to run consecutive to his sentence in United States v. Bonfiglio, 00-CR-373 (SDNY).

Respectfully submitted,

ROSLYNN R. MAUSKOPF
United States Attorney

By: /S/ Thomas J. Seigel
Thomas J. Seigel
Assistant U.S. Attorney
(718) 254-6339

cc: Susan Kellman, Esq. (via ECF)

bookmaking or racketeering charges brought in the Southern District.

²The only investigative coordination was Suffolk County's execution of a search warrant on Bonfiglio's home on the day of his arrest in the Southern District matter. Suffolk County seized loanshark records from Bonfiglio's home showing his responsibility for hundreds of thousands of dollars in loanshark loans.